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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,425	04/04/2006	Hans Lindh	P/1830-19	7893
2352	7590	04/02/2009	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			CHIN, PAUL T	
ART UNIT	PAPER NUMBER			
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04/02/2009	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,425	<b>Applicant(s)</b> LINDH, HANS
	<b>Examiner</b> PAUL T. CHIN	<b>Art Unit</b> 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 December 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz (5,997,062).

Schwartz (5,997,062) discloses a golf ball retrieval device comprising an elongated handle (14), a cage (Figs. 1-3) having a rear end facing the elongated handle and a front end facing away from the elongated handle, and a roof (Figs. 1-3) extending from the rear end to the front end, a first section (Fig. 2) located at the rear end of the cage, a second section (24) located at the front end wherein the first cage section has a first opening (32) and the second opening located the opposite of the rear end. Figs. 1 and 2 show a third opening above the roof of the cage and Fig. 2 shows a substantially wedge-shape configuration.

Re claim 2, Figs. 1 and 2 show a threshold (22, 22) formed between the first section and the second section to prevent the ball from rolling from the ball seating.

Re claims 3 and 5, Figs. 1 and 2 teach a substantially plane defined by an edge of the second opening defined an angle with respect to the longitudinal axis of the handle.

Re claim 4, the ball seating (22, 22) and the cage roof are capable being positioned a center of gravity of the ball beneath the longitudinal axis of the elongated handle (Fig. 3).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (6,695,370).

Johnson (6,695,370) discloses a golf ball retrieval device comprising an elongated handle (42), a cage (14) having a rear end facing the elongated handle and a front end facing away from the elongated handle, and a roof (Figs. 5 and 6) extending from the rear end to the front end, a first section (Fig. 8) located at the rear end of the cage, a second section (Fig. 5) located at the front end wherein the first cage section has a first opening (19) (see Fig. 3), larger than a golf ball, and the second opening (Fig. 3) located the opposite of the rear end. Fig. 3 shows a third opening, but does not show the opening to allow the golf ball to protrude through the opening. However, it would have been obvious to those skilled in the art to provide a size of an opening capable of allowing a partial of the golf ball to indicate the position of a gripped golf ball to a user. Re claim 2, Figs. 3 and 6 show a threshold (30, 38) formed between the first section and the second section to prevent the ball from rolling from the ball seating.

Re claims 3 and 5, Fig 8 teaches a substantially plane defined by an edge of the second opening defined an angle with respect to the longitudinal axis of the handle.

Re claim 4, the ball seating (30 (Fig. 6) and the cage roof are capable being positioned a center of gravity of the ball beneath the longitudinal axis of the elongated handle (Fig. 8).

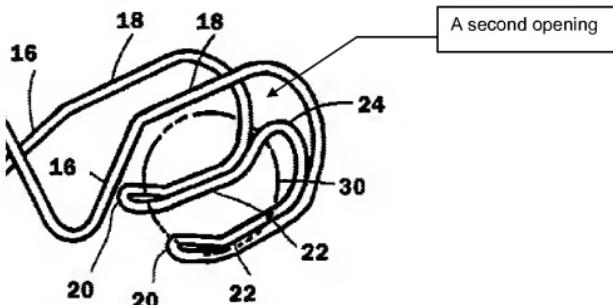
***Response to Arguments***

5. Applicant's arguments filed Dec 19, 2008, have been fully considered but they are not persuasive.

**Schwartz (5,997,062)**

Applicant argues that "Schwartz (5,997,062) does not show a second opening 33 located opposite the rear end of the case".

The argument is not persuasive. Schwartz (5,997,062) shown below shows a second opening 33 located opposite the rear end of the case"



**Johnson (6,695,370)**

Applicant also argues that "Johnson (6,695,370) is not dimensioned to drive the golf ball through the first opening into the ball seating in response to pressing the cage generally vertically against the golf ball".

The argument is not persuasive. Claim 1 recite a functional limitation and Johnson's device (6,695,370) capable of driving the golf ball through the first opening into the ball seating in response to pressing the cage generally vertically against the gold ball due to the resilient nature of the fingers (20, 38) (see Figs. 5-8).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571)272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PAUL T. CHIN/  
Primary Examiner, Art Unit 3652